

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.23588 of 2007

Between:

K.Ravi Satya Sai Babu.

PETITIONER ..

and

The Tahsildar and others.

RESPONDENTS ..

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ORDER:

It is the case of the petitioner that he purchased the land admeasuring Ac.0-78 cents in Sy.No.13/5 situated at Barlapudi Village, Movva Mandal, Krishna District, through a registered Sale Deed, dated 09-09-2004, from one Sri Koneur Mukunda Rao. It is stated that the said Koneur Mukunda Rao being an ex-service man, he was assigned the said land. Apart from that, he was also assigned another extent of the land admeasuring Ac.1-80 cents in Sy.No.66/1 situated at Kuchipudi Village, Movva Mandal, Krishna District. However, the petitioner is not concerned with the said land, but he is only concerned with the land admeasuring Ac.0-78 cents in Sy.No.13/5, which has been purchased by him. While so, the 1st respondent issued notice in Form-I to the original assignee Koneur Mukunda Rao on 11-07-2007 to submit explanation within 15 days as to why the assignment made in his favour should not be cancelled, as the said land has been transferred in favour of the petitioner in violation of the provisions of Sub-Section (2) of Section 3 of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (for short "the Act"). It is stated that the notice was received by the petitioner only in the third week of August, 2007 and the petitioner filed an explanation on 28-08-2007. But, even before receipt of the explanation, resumption orders have been passed on 26-08-2007 in proceedings in Rc.A.264/2007, stating that the show cause notice, dated 11-07-2007, was issued to the vendor of the petitioner and no explanation has been received pursuant to the said notice and, therefore, resumption orders have been passed.

It is further stated that in the resumption orders, it has not been mentioned as to on what date the show cause notice has been served. It is stated that the petitioner has got 15 days time to submit explanation from the date of service of notice and within 15 days only, he filed an explanation.

It is further stated that as the said land was assigned in favour of the ex-service man, there was no prohibition to purchase the said land after expiry of 10 years from the date of assignment.

Admittedly, an appeal lies against the said order under Section 4-A (1)

of the Act before the Revenue Divisional Officer.

But, however, the learned counsel appearing for the petitioner submits that as per the instructions of the Collector, Krishna, vide his proceedings in Rc.E3/161/07, dated 07-03-2007, the said orders have been passed and, therefore, approaching before the Revenue Divisional Officer is of no use, as the 1st respondent passed the impugned order at the instance of the Collector only.

A perusal of the resumption order goes to show that the Collector issued only instructions to identify the assigned land, but not with regard to the merits of the case. However, there is nothing wrong in giving general instructions either by the Government or the Collector to identify the assigned land. Therefore, it is always open for the petitioner to file an appeal against the order passed by the 1st respondent in proceedings in Rc.A.264/2007, dated 26-08-2007, before the Revenue Divisional Officer. Further, it is always open for the Appellate Authority to consider each and every aspect in detail and pass appropriate orders in accordance with law.

Having regard to the facts and circumstances of the case, the writ petition is disposed of permitting the petitioner to file an appeal against the order passed by the 1st respondent, dated 26-08-2007, in proceedings No.Rc.A.264/2007, within ten days from the date of receipt of a copy of this order. If any such appeal is filed within ten days from the date of receipt of a copy of this order, status-quo obtaining as on today shall be maintained, pending disposal of the appeal. There shall be no order as to costs.

06-11-2007

Prv